

# House Study Bill 156

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
HUMAN RESOURCES BILL BY  
CHAIRPERSON SMITH)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to nursing facility financial assistance related  
2 to certain renovation and construction and regulatory  
3 compliance, and providing an effective date.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 2004HC 82  
6 pf/gg/14

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1 1 Section 1. NEW SECTION. 249K.1 PURPOSE == INTENT.  
1 2 The purpose of this chapter is to provide a mechanism to  
1 3 support the appropriate number of skilled nursing facility  
1 4 beds for the state's citizens and to financially assist  
1 5 nursing facilities in remaining compliant with applicable  
1 6 regulations. It is the intent of this chapter that the  
1 7 administrative burden on both the state and nursing facilities  
1 8 be minimal.  
1 9 Sec. 2. NEW SECTION. 249K.2 DEFINITIONS.  
1 10 As used in this chapter, unless the context otherwise  
1 11 requires:  
1 12 1. "Complete replacement" means completed construction on  
1 13 a new nursing facility to replace a building that was  
1 14 previously licensed and certified by the state.  
1 15 2. "Department" means the department of human services.  
1 16 3. "Iowa Medicaid enterprise" means Iowa Medicaid  
1 17 enterprise as defined in section 249J.3.  
1 18 4. "Major renovations" means construction or facility  
1 19 improvements to a nursing facility in which the total amount  
1 20 expended exceeds one million five hundred thousand dollars.  
1 21 5. "Medical assistance" or "medical assistance program"  
1 22 means the medical assistance program created pursuant to  
1 23 chapter 249A.  
1 24 6. "New construction" means the construction of a new  
1 25 nursing facility which does not replace an existing licensed  
1 26 and certified facility and requires the provider to obtain a  
1 27 certificate of need pursuant to chapter 135, division VI.  
1 28 7. "Nondirect care component" means the portion of the  
1 29 reimbursement rate under the medical assistance program  
1 30 attributable to administrative, environmental, property, and  
1 31 support care costs reported on the provider's financial and  
1 32 statistical report.  
1 33 8. "Nursing facility" means a licensed, free-standing  
1 34 skilled nursing facility.  
1 35 9. "Provider" means a current or future owner or operator  
2 1 of a nursing facility that provides medical assistance program  
2 2 services.  
2 3 10. "Rate determination letter" means the letter that is  
2 4 distributed quarterly by the Iowa Medicaid enterprise to each  
2 5 nursing facility, which is based on previously submitted  
2 6 financial and statistical reports from each nursing facility.  
2 7 11. "Skilled nursing facility" means any institution,  
2 8 place, building, or agency providing for a period exceeding  
2 9 twenty-four consecutive hours accommodation, board, and  
2 10 nursing services, the need for which is certified by a  
2 11 physician, to three or more individuals not related to the  
2 12 administrator or owner thereof within the third degree of  
2 13 consanguinity who by reason of illness, disease, or physical  
2 14 or mental infirmity require continuous nursing care services  
2 15 and related medical services, but do not require hospital  
2 16 care. The nursing care services provided must be under the  
2 17 direction of a registered nurse on a twenty-four-hour-per-day

2 18 basis.

2 19 Sec. 3. NEW SECTION. 249K.3 GENERAL PROVISIONS ==

2 20 INSTANT RELIEF == NONDIRECT CARE LIMIT EXCEPTION.

2 21 1. A provider that constructs a complete replacement,

2 22 makes major renovations to or newly constructs a nursing

2 23 facility may be entitled to the rate relief and exceptions

2 24 provided under this chapter. The total period during which a

2 25 provider may participate in any relief or exception shall not

2 26 exceed ten years. A provider seeking assistance under this

2 27 chapter shall request either instant relief or the nondirect

2 28 care limit exception.

2 29 2. If the provider requests instant relief, the following

2 30 provisions shall apply:

2 31 a. The provider shall submit a written request for instant

2 32 relief to the Iowa Medicaid enterprise explaining the nature,

2 33 timing, and goals of the project and the time period during

2 34 which the relief is requested. The written request for relief

2 35 shall provide adequate details to calculate the estimated

3 1 value of relief including but not limited to all of the

3 2 following:

3 3 (1) The total cost of the project, the estimated annual

3 4 depreciation expenses using generally accepted accounting

3 5 principles, and the estimated useful life based upon existing

3 6 medical assistance and Medicare provisions.

3 7 (2) If interest expenses are included, the general terms

3 8 of the debt service and the estimated annual amount of

3 9 interest expenses.

3 10 b. The following shall apply to the value of relief

3 11 amount:

3 12 (1) If interest expenses are disclosed, the amount of

3 13 these expenses shall be added to the value of relief.

3 14 (2) The calculation of the estimated value of relief shall

3 15 take into consideration the removal of existing assets and

3 16 debt service.

3 17 (3) The calculation of the estimated value of relief shall

3 18 be demonstrated as an amount per patient day to be added to

3 19 the current nondirect care component. The annual patient days

3 20 for this calculation shall be determined based upon budgeted

3 21 amounts or the most recent annual total as demonstrated on the

3 22 provider's Medicaid financial and statistical report.

3 23 (4) The combination of the current nondirect care

3 24 component and the estimated value of relief shall not exceed

3 25 one hundred and twenty percent of the nondirect care median

3 26 for the relevant period.

3 27 c. Instant relief granted under this subsection shall

3 28 begin the first day of the calendar quarter following

3 29 placement of the provider's assets in service.

3 30 d. Instant relief granted under this subsection shall be

3 31 terminated at the time of the provider's subsequent biannual

3 32 rebasing when the submission of the annual cost report for the

3 33 provider includes the new replacement costs and the annual

3 34 property costs reflect the new assets.

3 35 3. If the provider requests the nondirect care limit

4 1 exception, all of the following shall apply:

4 2 a. The nondirect care limit for the rate setting period

4 3 shall be increased to one hundred and twenty percent of the

4 4 median for the relevant period.

4 5 b. The exception period shall not exceed a period of two

4 6 years and shall be requested within sixty days of the release

4 7 of the July 1 rate determination letters following each

4 8 biannual rebasing cycle.

4 9 c. If applicable, the provider shall identify any time

4 10 period in which instant relief was granted and shall indicate

4 11 how many times the instant relief was granted previously.

4 12 Sec. 4. NEW SECTION. 249K.4 SPECIAL CIRCUMSTANCES ==

4 13 RECENT PROJECTS AND PRELIMINARY APPROVAL.

4 14 1. a. The department shall allow a one-time nondirect

4 15 care limit exception for a provider that has completed

4 16 facility replacement and shall include the costs of the

4 17 completed facility replacement in the provider's current

4 18 reimbursement as documented in the financial and statistical

4 19 report submitted for fiscal year 2004.

4 20 b. A provider specified in paragraph "a" may request the

4 21 exception under this subsection within thirty days of the

4 22 effective date of this Act.

4 23 c. An exception approved under this subsection shall be

4 24 counted against the total number of years of relief or

4 25 exceptions allowed a provider under section 249K.3.

4 26 2. a. A provider preparing cost or other feasibility

4 27 projections for a request for relief or an exception pursuant

4 28 to section 249K.3 may submit a request for preliminary

4 29 approval.  
4 30 b. The request shall contain all of the information  
4 31 required for the type of assistance sought pursuant to section  
4 32 249K.3.  
4 33 c. The provider shall estimate the timing of the  
4 34 initiation and completion of the project to allow the  
4 35 department to respond with estimates of both instant relief  
5 1 and the nondirect care limit exception.  
5 2 d. The department shall respond to a request for  
5 3 preliminary approval under this subsection within thirty days  
5 4 of receipt of the request.  
5 5 Sec. 5. NEW SECTION. 249K.5 ADMINISTRATION ==  
5 6 PARTICIPATION REQUIREMENTS.  
5 7 1. The Iowa Medicaid enterprise shall administer this  
5 8 chapter. The department of human services shall adopt rules,  
5 9 pursuant to chapter 17A, to administer this chapter.  
5 10 2. In addition to any other factors to be considered in  
5 11 determining if a provider is eligible to participate under  
5 12 this chapter, the Iowa Medicaid enterprise shall consider all  
5 13 of the following:  
5 14 a. The history of the provider's regulatory compliance.  
5 15 b. The historical access to nursing facility services for  
5 16 medical assistance program beneficiaries.  
5 17 c. The projected service demand based upon the specific  
5 18 geographic area in which the provider is located.  
5 19 d. The provider's dedication to and participation in  
5 20 quality of care, considering all quality programs in which the  
5 21 provider has participated.  
5 22 e. The provider's plans to facilitate person-directed  
5 23 care.  
5 24 f. The provider's plans to facilitate dementia units and  
5 25 specialty post-acute services.  
5 26 g. The provider's need to obtain regulatory compliance for  
5 27 sprinkler systems or heating, ventilation, and air  
5 28 conditioning systems.  
5 29 3. a. Any relief or exception granted under this chapter  
5 30 is temporary and shall be immediately terminated if all of the  
5 31 participation requirements under this chapter are not met.  
5 32 b. If a provider's medical assistance program or Medicare  
5 33 certification is revoked, any existing exception or relief  
5 34 shall be terminated and the provider shall not be eligible to  
5 35 request subsequent relief or an exception under this chapter.  
6 1 4. Following a change in ownership, relief or an exception  
6 2 previously granted shall continue and future rate calculations  
6 3 shall be determined under the provisions of 441 IAC 81.6(12)  
6 4 relating to termination or change of ownership of a nursing  
6 5 facility.  
6 6 Sec. 6. EFFECTIVE DATE. This Act, being deemed of  
6 7 immediate importance, takes effect upon enactment.  
6 8 EXPLANATION  
6 9 This bill provides for financial assistance to freestanding  
6 10 skilled nursing facility providers. A provider may request  
6 11 either instant relief, which is a per-patient day amount to be  
6 12 added to the current direct care component not to exceed 120  
6 13 percent of the nondirect care median for the relevant period,  
6 14 or a nondirect care limit exception, which is an increase in  
6 15 the nondirect care limit for the relevant period of 120  
6 16 percent of the median. The assistance may be requested by a  
6 17 provider who constructs a complete replacement, makes major  
6 18 renovations, or newly constructs a nursing facility. All  
6 19 assistance provided is limited to a maximum of 10 years. The  
6 20 bill also provides for a one-time exception for providers who  
6 21 have complete facility replacement costs included in their  
6 22 fiscal year 2004 financial and statistical reports, and  
6 23 provides for the requesting of a preliminary approval for  
6 24 providers preparing cost or other feasibility projections.  
6 25 The provisions are to be administered by the department of  
6 26 human services. The bill takes effect upon enactment.  
6 27 LSB 2004HC 82  
6 28 pf:nh/gg/14